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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,222	08/22/2003	Nelson H. Oliver	2003P08477US	1397

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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
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EXAMINER

JAWORSKI, FRANCIS J

ART UNIT PAPER NUMBER

3768

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/646,222

Applicant(s)

OLIVER ET AL.

Examiner

Jaworski Francis J.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 050306.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 21 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 18-21 is/are allowed.
6) ☒ Claim(s) 1 and 3-17 is/are rejected.
7) ☒ Claim(s) 2 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6-11, 13-14, 16-17 are again rejected under 35 USC U.S.C. 102(b) as being anticipated by Horner (US4528652) which teaches an ultrasound transducer including a backing comprising a physical mixture of lead oxide and/or microspheres in combination with silicone rubber brought into contact but unbonded by gas evacuation of residual air, and including 1:1 mix ratios (see table).

Since the backing fabrication is stated to be an alternative to adhesive materials and there is no stated indication that the mixture of particles into rubber results in any form of bonding, the disclosure effectively embraces an unbonded particle design.

Claims 1, 9-10 and 12-14 are again rejected under 35 USC 102(b) as being anticipated by McElroy et al (US3794866) since col. 6 lines 31 – 36 teaches that the backing block may comprise metal fibers with (incompatible) residual air voids whereupon the block would inherently have the stiffness of the fibers.

The metal fibers are merely elongated articles individually (there being no limitation as to particle shape for example) which are woven into a mat form. It is convention to refer to individual fibers as particles when separated from the matrix.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 3-4 are under 35 U.S.C. 103(a) as being unpatentable over Horner as again applied against claim 1 above, further in view of Trzaskos (US4382201) since the latter teaches in col. 1 lines 35-51 that degassed polymer-metal composites can provide a desirable high attenuation as ultrasound backing members when the contributing particles are 10 microns or less.

Claims 5 and 15 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Horner as applied to claims 1, 13 above, and further in view of Saito et al (US4571520) since the latter teaches that both rubber and polymer plastic

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microballoons may be used as matrix and filler for forming such a backing layer as called for in Horner.

Allowable Subject Matter

Claim 2 is again objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 18-21 are allowable over the prior art.

Response to Amendment Arguments

The Examiner is adhering to the previous rejections insofar as the Horner transducer backing construct is described as alternative to an adhesive type backing and is described as a mixture with no form of bonding acknowledged. The McElroy et al transducer system is considered to have a backing of metal particles and air voids since it is common in the vernacular to refer to matted materials as having constituent particles as in the case of particle contamination from batt insulation for example, there being no further recited limitations on the geometry of the particles.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the


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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jaworski Francis J. at telephone number 571-272-4738.

FJJ:fjj

080306


Francis J. Jaworski
Primary Examiner